



Environmental Planning Commission

***Agenda Number: 6
Project Number: 1007674
Case Number: 09EPC-40059
December 17, 2009***

Staff Report

<i>Agent</i>	Les Gutierrez, Q-3 Consulting
<i>Applicant</i>	Verizon Wireless, Pacific Realty Co.
<i>Request</i>	Waiver- Site Development Plan, Wireless Telecommunications Facility (WTF) Landscaping Requirements
<i>Legal Description</i>	the west ½ of Lot 1, Section 19, T10N, R4E, N.M.P.M
<i>Location</i>	S. side of Lomas Blvd., btwn Louisiana Blvd. and Chama St. (7220 Lomas Blvd. NE)
<i>Size</i>	Approximately 1.21 acres
<i>Existing Zoning</i>	C-2 (SC)
<i>Proposed Zoning</i>	No Change

Staff Recommendation

That the EPC conditionally grant the waiver, based on the Findings beginning on Page 14, and subject to the Conditions of Approval beginning on Page 16.

Staff Planner

Catalina Lehner, AICP-Staff Planner

Summary of Analysis

This request is for a waiver of the requirement in Subsection (A)(16)(b) of the Wireless Telecommunications (WT) regulations [Zoning Code §14-16-3-17] that landscaping surround a free-standing wireless telecommunication facility (WTF). An application for a WTF on the subject site is currently pending.

Subsection (A)(16)(a) expressly gives the EPC authority over a landscaping waiver. The applicant reasons that the base of the proposed monopole would not be visible from adjacent streets, the proposed equipment area would be in a corner of the parking lot, and the landscaping would infringe into existing drive aisles.

A facilitated meeting was held. Neighbors voiced concerns mostly about the generator. The Jerry Kline Park NA submitted a letter of opposition to the waiver.

The EPC can: 1) grant the waiver as requested, 2) deny the waiver, or 3) grant the waiver subject to conditions. Staff recommends the third course of action.

I. AREA CHARACTERISTICS AND ZONING HISTORY

Surrounding zoning, plan designations, and land uses:

	<i>Zoning</i>	<i>Comprehensive Plan Area; Applicable Rank II & III Plans</i>	<i>Land Use</i>
<i>Site</i>	C-2 (SC)	Established Urban La Mesa Sector Development Plan	Restaurant/lounge
<i>North</i>	C-2	Established Urban	Vehicle sales
<i>South</i>	C-2 (SC)	Established Urban La Mesa Sector Development Plan	Commercial use/indoor swap meet
<i>East</i>	C-2	Established Urban La Mesa Sector Development Plan	Vehicle sales
<i>West</i>	C-2 (SC)	Established Urban	Vehicle sales

II. INTRODUCTION

In the City of Albuquerque, “cell towers” and “cell sites” are referred to using the broader term “Wireless Telecommunication Facility”, or WTF. The Wireless Telecommunications (WT) Regulations, which are found in Zoning Code §14-16-3-17, establish application requirements and parameters for WTF siting.

WTF applications are classified as administrative amendments (AAs). The Planning Department Director’s designee (“the wireless Designee”) is tasked with determining whether or not a proposed WTF complies with the City’s WT Regulations. The wireless Designee is responsible for issuing a written decision (for approval or denial) regarding a proposed WTF. AA applications are not conditioned.

Application & Current Request

On February 11, 2009, Verizon Wireless submitted an application for free-standing wireless telecommunication facility (WTF) on the subject site. The application (Project #1007674, 09AA-10016) is pending. City Staff has been working with the applicant and interested parties to remedy deficiencies in the submitted materials and to address concerns.

Included with the application was a request for relief (a waiver) of the landscape requirement associated with a proposed, free-standing wireless telecommunication facility (WTF) on the subject site. The wireless Designee is not authorized to grant the requested relief. Pursuant to §14-16-3-17(A)(16)(a) of the WT regulations, the Environmental Planning Commission (EPC) has jurisdiction to waive the landscaping requirement-which is why the current request is before the EPC. Pursuant to §14-16-3-17(A)(15)(e), the decision regarding the overall WTF application remains the task of the wireless Designee (Current Planning Division, Senior Planner).

Subsection (A)(16)(b) of the Wireless Telecommunications (WT) Regulations requires that new, free-standing wireless telecommunications facilities (WTFs) be surrounded by landscaping. The proposed landscaping does not surround the proposed WTF lease areas and therefore does not comply with Subsection (A)(16)(b). No landscaping is proposed around one of the lease areas (Lease Area A, near the western side of the parking lot). Partial landscaping is proposed around the other lease area (Lease Area B, near the subject site's southwestern corner). See Section IV of this report for Staff's analysis.

Context

An established restaurant/lounge occupies the subject site. To the north, across Lomas Blvd., is an auto dealership. To the south is the large parking lot of a commercial use, and then a vacant field and a nursing care facility. To the west and east are also auto dealerships, though both appear to not be in use currently. Further to the west is the State Fairgrounds. Further to the south (beginning south of Marquette St.) are single-family homes.

The subject site is included in the State Fair Special Activity Center. The La Mesa Sector Development Plan (LMSDP) applies.

History & Background

In December 1963, the City Planning Commission (CPC) recommended approval to the City Commission (CC) of a plat and a development plan for the "Globe Shopping City", which included a grocery store. Located on the southeast corner of the intersection of Lomas and Louisiana Blvds., this site is the present location of an auto sales business and is adjacent west of the current subject site. The 1963 Zone Atlas shows a single, large tract zoned C-2 (see attachment). The CC approved both requests in January 1964 (Z-1364, S-1306, see attachment). The site plan was subject to the dedication of additional right-of-way for Louisiana Blvd.

The same file contains records of a request for a possible site plan amendment in 1971 for the Globe Shopping City (Z-1364) and site plans for an automotive center (with an architectural stamp date of 1995). The automotive center exists today. The building that apparently housed the Globe store was subsequently used by a discount retailer and today functions as an indoor flea market.

In January 1976, the Zoning Hearing Examiner (ZHE) approved a special exception for the existing restaurant/lounge use on the subject site. Apparently, the Zoning Code had been updated and new setback requirements were established. The restaurant/lounge was approx. 3 ft. 9 in. from its eastern boundary along Chama St. and a minimum 5 ft. setback was required for the side yard (Z-76-15).

Zoning

The subject site is zoned C-2(SC). The C-2 community commercial zone (Zoning Code §14-16-2-17) "provides suitable sites for offices, for most service and commercial activities, and for certain specified institutional uses." Evidence of C-2 zoning dates back to 1963, and was possibly in place earlier.

Setbacks in the C-2 zone (which references the O-1 zone) are as follows: not less than 5 ft. for the front and corner side yards, and 11 ft. from the junction of a driveway or alley and a public sidewalk (or planned sidewalk) location.

The SC (Shopping Center) designation indicates that the subject site is part of a larger shopping center site. The Shopping Center regulations (Zoning Code §14-16-3-2), which are not a zone category, control the development of shopping center sites. By definition, shopping center sites are zoned P, C-1 C-2, C-3, M-1, M-2 or a combination thereof (see Definitions section of this report). Proposed site development plans for SC sites go through the Environmental Planning Commission (EPC) as do plans for SU-1 zoned sites. For SC sites, however, the EPC does not have discretion over variables such as parking and height as it does with an SU-1 zoned site.

Long Range Roadway System

The Long Range Roadway System (LRRS) map, produced by the Mid-Region Council of Governments (MRCOG), identifies the functional classifications of roadways. Lomas Blvd. is an urban principal arterial, with a 156 foot right-of-way (ROW). Louisiana Blvd. is an urban principal arterial. Chama St. is a local street.

Definitions (Zoning Code §14-16-1-5)

Collocation. The location of more than one wireless telecommunications facility (WTF) on the same structure by more than one wireless telecommunications facility owner, or the location of one or more wireless telecommunications facility on a public utility structure.

Free-Standing Wireless Telecommunications Facility. A wireless telecommunications facility that consists of a stand-alone support structure, antennas, and associated equipment. The support structure may be a wooden pole, steel monopole, lattice tower, or similar structure. This does not include a wireless telecommunications antenna which is mounted on a public utility structure or light standard, or a Community Identity Feature.

Setback. The shortest distance between a structure and a lot line or future street line.

Shopping Center Site. A premises containing five or more acres zoned P, C-1, C-2, C-3, M-1, M-2 or a combination thereof; but excluding premises used and proposed to be used only for manufacturing, assembling, treating, repairing, rebuilding, wholesaling, and warehousing.

Structure. Anything constructed or erected above ground level which requires location on the ground or attached to something having a location on the ground but not including a tent, vehicle, vegetation, or public utility pole or line.

Wireless Telecommunications Equipment Building or Cabinet. A building or cabinet in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.

Wireless Telecommunications Facility (WTF). A facility that transmits and/or receives signals or waves radiated or captured by a wireless telecommunications antenna. It may include antennas of all kinds including microwave dishes, horns, and other types of equipment for the transmission or reception of such signals, telecommunications tower or similar structures supporting such equipment, equipment buildings or cabinets, parking area, and/or other accessory development.

III. APPLICABLE LAWS, REGULATIONS AND PLANS

A) The Telecommunications Act of 1996 (“the Act”, in brief)

In 1996, the Communications Act of 1934 (47 U.S.C. 151 et seq.) was amended to include regulation of personal wireless services. The Telecommunications Act (“the Act”) covers broadcasting, cable, video programming and wireless telecommunications.

The Act contains important provisions concerning wireless telecommunications facilities that are used to provide personal wireless services. Specifically, Section 253 addresses the removal of barriers to entry for the telecommunications industry. State or local regulations cannot prohibit (or have the effect of prohibiting) any entity from providing telecommunications service. This means that communities are not allowed to outright ban wireless facilities.

Section 332(c) of the Act regulates state and local government oversight of the siting of personal wireless service facilities. The Act established a comprehensive framework for the exercise of state and local jurisdiction over the placement, construction and modification of such facilities. Section 704(a)(7)(A) states that the Act shall not limit or affect the authority of a State or local government over decisions regarding the placement, construction and modification of personal wireless service facilities.

However, there are limitations on local authority. Local governments are required to not unreasonable discriminate among providers (B)(i), act on an application in a reasonable amount of time (B)(ii), substantiate a denial decision in writing (B)(iii), not regulate based on radio frequency (RF) emissions (B)(iv), and note that an aggrieved party can begin an action in court and may petition the Federal Communications Commission (FCC) for relief.

B) Wireless Telecommunications Regulations- Zoning Code §14-16-3-17

The Wireless Telecommunications Regulations (“the WT regulations”), which establish application requirements and parameters for wireless telecommunication facility (WTF) siting, apply to all new, proposed WTFs in the City. The current version of the WT regulations, Council Bill No. F/S (3) O-06-40, became effective on January 21, 2008 and is found in Zoning Code §14-16-3-17 (see attachment).

Landscaping

Pursuant to Subsection (A)(16)(b) of the WT Regulations, new free-standing wireless telecommunications facilities (WTFs) must be surrounded by landscaping. A landscaping buffer must be provided around the wall which surrounds the WTF components (ex. pole, equipment, etc.). The landscaping buffer is intended help mitigate the visual impact of the WTF.

The request is for a waiver of the landscaping requirement for a proposed, free-standing WTF. Pursuant to Subsection (A)(16)(a), the EPC has jurisdiction to waive the landscaping requirement where it finds that this requirement is not useful to achieving the intent of the Zoning Code [§14-16-1-3, see attachment]. WTF applications are considered administrative amendments (AAs) and are decided by the Planning Department director’s designee (“the designee”). However, the designee does not have the authority to grant or deny a waiver of the landscaping requirement.

The WT Regulations contain the following landscaping requirement:

- “(16) Landscaping and Screening: The following regulations shall apply to landscaping and screening:
- (a) A free-standing wireless telecommunications facility shall include landscaping planted and maintained according to a Landscaping Plan approved by the Planning Director or his/her designee; however, the Planning Commission may waive this requirement where the Planning Commission finds this requirement is not useful to achieving the intent of this Zoning Code.
 - (b) A free-standing wireless telecommunications facility shall be surrounded by solid fence or wall, at least six feet high and not more than nine feet high, and landscaping to properly screen ground equipment facilities from public view. Chain link with slats shall not constitute a solid fence or wall.” [emphasis added]

The applicant is proposing a free-standing WTF on the subject site. Note that the proposed WTF, unlike most WTFs, is located in two places on the subject site (see Sheet Z-1). For various reasons (see Section IV of this report), the applicant believes that the landscaping requirement cannot be fully complied with in this case.

The proposed WTF’s landscaping plan does not comply with Subsection (A)(16)(a) for two reasons: and 1) landscaping is not proposed around the tower enclosure wall (Lease Area A), and 2) landscaping is proposed on only two sides of the equipment enclosure wall and would not surround it (Lease Area B, see Sheet LS-1).

Waiver Provisions

Subsection (C) of the WT Regulations contains waiver provisions which govern the requested waiver pursuant to Subsection (A)(16) (see above). The EPC can grant the waiver only if it finds, in writing, that the waiver:

- (C)(1) (a) Is in the best interest of the community as a whole;
- (b) Will expedite the approval of an antenna, tower, or tower alternative;
 - (c) Will not jeopardize public health, safety and welfare;
 - (d) Will either ameliorate the adverse impacts of antenna and tower proliferation or the adverse impact of requiring new construction of towers or antennas; and
 - (e) Will better serve the purposes of this section.

These criteria are required to become part of the findings of fact to support the EPC’s decision regarding the proposed landscaping waiver. See Section IV of this report for Staff’s analysis of these criteria in light of the request.

Subsection (C) also establishes a list of facts for the EPC to consider in reviewing an application for a waiver:

- (C)(2) (a) The height of the proposed tower;
- (b) The proximity of the tower antenna to residential structures and residential district boundaries;
- (c) The nature of uses on adjacent and nearby properties;
- (d) The surrounding topography;
- (e) The surrounding vegetation and foliage;
- (f) The design of the tower or antenna, with particular reference to design characteristics that have the effect of reducing or eliminating any visual obtrusiveness;
- (g) The proposed ingress and egress;
- (h) The availability of suitable existing towers or other structures; and
- (i) Such other factors as may be relevant.

The abovementioned, including any other facts deemed relevant, can be considered in reaching a decision regarding a waiver. Some of the facts may not enter into a discussion of the proposed landscape waiver. These criteria will also become part of the findings of fact pertaining to the request.

C) Albuquerque/Bernalillo County Comprehensive Plan- Rank I

The subject site is located in an area that the Albuquerque/Bernalillo County Comprehensive Plan has designated Established Urban. The Comprehensive Plan goal of Developing and Established Urban Areas is “to create a quality urban environment which perpetuates the tradition of identifiable, individual but integrated communities within the metropolitan area and which offers variety and maximum choice in housing, transportation, work areas and life styles, while creating a visually pleasing built environment.” Applicable policies include:

- ⇒ Note: This policy discussion is limited to the proposed landscaping only (see Sheet LS-1), which is the current request. The WTF application itself is not analyzed.

Land Use Policies-

Policy II.B.5d: The location, intensity and design of new development shall respect existing neighborhood values, natural environmental conditions and carrying capacities, scenic resources, and resources of other social, cultural, recreational concern.

The proposed enclosure wall and associated landscaping can be considered new development. The proposed landscaping buffers would not be an intense use in general; their location and design would not adversely affect social, cultural and recreational resources and would somewhat improve scenic resources in the vicinity. The request generally furthers Policy II.B.5d-location and intensity/various resources.

Policy II.B.5m: Urban and site design which maintains and enhances unique vistas and improves the quality of the visual environment shall be encouraged.

The proposed landscape buffers would generally improve the quality of the visual environment in the vicinity of the subject site. However, landscaping surrounding the enclosure wall would improve the visual environment's quality more. The request generally furtheres Policy II.B.5m-design/quality of the visual environment.

Developed Landscape-

Goal: To maintain and improve the natural and the developed landscapes' quality.

The subject site lies in the Established Urban area. In general, the addition of landscape buffers would improve the quality of the developed landscape. In this case, the proposed landscape buffers are partial and would not improve the quality as much as full landscaping buffers would. However, one of the proposed enclosure walls to be landscaped is located in a parking lot behind a building and would not be readily visible. The request partially furthers the Developed Landscape Goal.

D) La Mesa Sector Development Plan (LMSDP) (Rank III)

The La Mesa Sector Development Plan (LMSDP) was first adopted in November 1976 (Resolution 190-1976) and was amended in May 1978. The LMSDP generally encompasses properties between Lomas Blvd. to the north, Wyoming Blvd. to the east, Central Ave. to the south and Louisiana Blvd. to the west. Specific boundaries are shown on Page 3 of the Plan. The LMSDP did not establish zoning and does not use the SU-2 zoning designation.

The overarching goal of the LMSDP is to guide renewal of the area and improvement of the living conditions of low and moderate income families by upgrading housing, public facilities and City services in the area (p. 13). The Plan's long-term and short-term objectives are set forth on p. 14. Both sets of objectives emphasize elimination of blighting influences such as weeds, litter and crime, upgrading of housing, provision of infrastructure and needed public facilities such as parks. The goal and objectives do not apply to the request and as such are not analyzed here.

IV. SITE DEVELOPMENT PLAN, WAIVER OF WTF LANDSCAPING REQUIREMENTS

⇒ Note: Recall that the request at hand pertains only to a waiver of the landscaping requirement (see Sheet LS-1). A brief description of the site development plan for other components of the proposed wireless telecommunications facility (WTF) is provided for context (see B of this section).

A) Jurisdiction

The WT regulations specifically give jurisdiction over the landscape requirements to the EPC; the EPC may waive the landscaping requirement upon finding that such requirement is not useful for achieving

the intent of the Zoning Code [Subsection (A)(16)(a)]. The fact that the WT regulations contain waiver provisions suggests that there are instances in which a waiver could be warranted.

B) Reason for Waiver Request

The applicant presented a general reason for the requested waiver of the landscaping requirement in a letter dated February 10, 2009 (see attachment). The reason was that the proposed WTF would be located behind the existing restaurant. Staff believed that additional justification was warranted and requested such via a letter to the applicant dated March 24, 2009 (see attachment).

The applicant responded with a letter, dated May 11, 2009, detailing the reasons for the requested waiver (see attachment). The applicant states that the base of the proposed monopole would not be visible from the adjacent streets of Lomas and Chama, and would take up one parking lot space [Lease Area A]. The proposed WTF equipment area would be located in the farthest parking lot spaces, and the design would not allow for landscaping without infringing on the existing drive aisles [Lease Area B].

Due to City Staff's concern for meeting the intent of the Zoning Code and the property owner's desire for a waiver, the wireless provider created a proposed landscaping plan for the WTF application which presents a compromise. The first and second versions of the proposed site plan set did not propose any landscaping. The third version of the proposed site plan set (see attachment- Reductions) contains a landscaping plan with partial landscaping (see Sheet LS-1 and Subsection B below).

C) Proposed Landscaping Plan (see Sheet LS-1)

Lease Area A (180 sf): The smaller of the lease areas, Lease Area A contains the proposed monopole and the enclosure wall around it, and is located approximately 47 ft. south of the building behind its southwestern corner. Landscaping is not proposed around Lease Area A.

Lease Area B (600sf): The larger of the lease areas, Lease Area B contains the equipment building and is located near the subject site's southwestern corner. Landscaping is proposed around a portion (the southern and northern sides) of Lease Area B.

D) General Staff Analysis

The proposed WTF does not comply with Subsection (A)(16)(b) of the WT Regulations, which require that landscaping surround the WTF lease areas. To achieve compliance, landscaping would be needed around all four sides of Lease Area A and all four sides of Lease Area B. Recall that Subsection (A)(16)(b) states (in part) that:

“...A free-standing wireless telecommunications facility shall be surrounded by solid fence or wall, at least six feet high and not more than nine feet high, and landscaping...” [emphasis added].

Two issues come to the forefront: 1) When a WTF is proposed in a parking lot area amidst a larger commercial area, should landscaping be required to screen it? And 2) When a proposed WTF consists of two lease areas in separate locations, should both lease areas be required to be landscaped? Though perhaps better considered in the context of possible, future revisions to the WT regulations, at this time

the question at hand is: Should a waiver to the WT regulations be granted? If so, should the landscaping plan on Sheet LS-1 be approved as proposed or are there alternatives?

To grant such a waiver, the EPC must find in writing that the waiver:

- (C)(1) (a) Is in the best interest of the community as a whole;
- (b) Will expedite the approval of an antenna, tower, or tower alternative;
- (c) Will not jeopardize public health, safety and welfare;
- (d) Will either ameliorate the adverse impacts of antenna and tower proliferation or the adverse impact of requiring new construction of towers or antennas; and
- (e) Will better serve the purposes of this section.

Overall, Staff finds that most of the abovementioned criteria are generally fulfilled. The requested waiver would generally expedite the approval of a proposed WTF by resolving an outstanding issue in the WTF application review process (b). Such resolution is intended to be in the community's best interest because, provided the proposed WTF is found subsequently to comply with the WT regulations, the WTF would allow for the expansion and/or provision of wireless services for the community (a) which would not jeopardize the public health, safety and welfare (c) since WTFs must meet the Federal Communication Commission (FCC) health and safety standards.

Staff finds that the requested waiver would not as readily fulfill criteria (d) and (e). The intent of the WT regulations' landscaping requirement is to screen ground equipment from public view [§14-16-3-17 (A)(16)(b)] and thereby lessen the adverse impact on the visual and physical environment. Providing less landscape than required would ameliorate adverse impacts to a lesser degree than the required landscaping (d). A similar argument can be made with respect to (e), that the required landscape would better serve the purposes of this section (meaning the WT regulations).

E) Specific Staff Analysis

The EPC is tasked with determining if, and to what extent, the requested waiver of the landscape requirement should be granted given the particulars of the subject site. There are basically three courses of action that the EPC can take:

1. Grant the waiver as requested, thereby approving the proposed landscaping plan (Sheet LS-1).
2. Deny the waiver, thereby denying the proposed landscaping plan (Sheet LS-1) and requiring landscaping pursuant to the WT regulations.
3. Conditionally grant the waiver, thereby approving a revised version of the landscaping plan (Sheet LS-1) which incorporates conditions of approval.

The following is Staff's analysis of the implications of each alternative:

Alternative 1

Should the EPC choose to grant the waiver as requested, there are two associated issues that would not be resolved. First, the landscape buffers would have to be shifted 1.5 ft. east to meet the C-2 zone's minimum 5 ft. setback requirement from the western property line. Second, the proposed plants in the southern landscape buffer would be sandwiched between a 9 ft. enclosure wall and the side of an approx. 10 ft. portable storage unit. The plants would be unlikely to survive due to light deprivation.

Alternative 2

Should the EPC choose to deny the waiver, landscaping buffers would be required pursuant to the WT regulations Subsection (A)(16)(b). Both of the lease areas would be required to have landscaping buffers, typically 6 ft. wide, around all four sides. Additional area on the subject site would be needed to accommodate the buffers. Lease Area B would encroach into the existing north-south drive aisle and Lease Area A would occupy more parking spaces to meet the requirement.

When contemplating denial of the requested waiver, it is important to consider whether the required landscaping would be needed to "properly screen ground equipment facilities from public view" [Subsection (A)(16)(b)], and how (un)reasonable it would be to have landscaping surround both lease areas based on where they are proposed to be located on the subject site.

Alternative 3

Should the EPC choose to grant the waiver subject to conditions of approval, as recommended by Staff, the associated issues mentioned in Alternative 1 could be resolved through application of conditions. The landscape buffers on the north and south could be shifted 1.5 ft. east to accommodate the minimum side setback. (Note: neither the EPC nor the Designee can grant relief of the setback requirement of the underlying C-2 zone.) A landscape buffer could be required on the eastern side of Lease Area B to address neighborhood concerns of visibility from Chama St. and to better meet the intent of the WT regulations. The eastern side of the enclosure wall for Lease Area A, at 9 ft. side, would be less visible from Chama St. than the 30 ft. side enclosure wall for Lease Area B.

The portable storage units could be relocated to another area (on or off the subject site) where they would not impede light to the southern (or any other) landscape buffer. The area presently occupied by the storage units would become available; Lease Area B could be shifted southward and a southern landscape buffer provided. The enclosure area may have to be reconfigured to ensure that it does not impact the drive aisle; however, location at the subject site's southwestern most corner would lessen the impact to any existing drive aisles.

If the storage units are not relocated, the southern enclosure wall could be moved up against the wall of the northern storage unit, eliminating the southern landscape buffer. In either instance, a revised Sheet LS-1 would be required to show the changes. In addition, revisions would be needed to Sheets Z-1 and Z-2, and a note added to Sheet SP-1 regarding relocation of the storage units.

V. SITE DEVELOPMENT PLAN, CONTEXT

⇒ Note: The information provided below is for contextual purposes only and pertains to the overall WTF application, not directly to the waiver request.

Site Plan Layout / Configuration

The applicant is proposing a free-standing WTF on the subject site. The proposed WTF, unlike most WTFs in the City of Albuquerque, is located in two places on the subject site (see Sheet Z-1). Separating the tower area from the equipment area is technically possible, and can allow flexibility for wireless site planning. In this case, the fact that the tower area is separate from the equipment area allows the proposed tower to be located behind the existing building rather than in plain view from Lomas Blvd.

Lease Area A (180 sf), proposed behind the existing building, would contain the proposed 65 ft. monopole and an enclosure wall. Lease Area B (600 sf), proposed near the subject site's southwestern corner, would contain the equipment shelter, backup generator and enclosure wall.

Vehicular Access, Circulation & Parking

The lease areas will only need to be accessed occasionally for maintenance purposes. A utility access easement is proposed near the subject site's western side, running north-south.

TIS: A Traffic Impact Study (TIS) was not required.

Walls/Fences

Pursuant to §14-16-3-17(A)(16)(b), a free-standing WTF must be surrounded by a solid fence or wall, at least 6 ft. high and not more than 9 ft. high. Chain link with slats does not constitute a solid wall. The proposed enclosure walls, 8 ft. for Lease Area A and 9 ft. for Lease Area B, are split-faced block to be painted medium brown.

The proposed enclosure wall for Lease Area B is 3.5 ft. from the western, adjacent property line. Required minimum setback in the C-2 zone for a side yard is 5 ft. The proposed enclosure wall will have to be relocated to comply with the setback requirement.

Architecture/Design

The proposed WTF is a 65 ft. monopole. The allowable height for a free-standing WTF is 65 ft. A 75 ft. pole is allowed provided that more than one carrier can place its equipment thereon (collocation). The proposed monopole is designed to resemble a light pole. The antennas would be contained inside of the pole structure (concealed antennas) as required. Only concealed antennas are allowed pursuant to §14-16-3-17(A)(1).

Lighting & Security

Because the proposed monopole is designed to resemble and replace a parking lot light pole, a single-fixture light box is proposed on the west and east sides of the pole. The light box would be mounted at the 16 ft. level. Security lighting is allowed provided it does not shine directly on any public right-of-way or residential premises.

Signage

The only signage that is permitted for a WTF is signage which is required by State or Federal law.

VI. AGENCY & NEIGHBORHOOD CONCERNS

A) Concerns of Reviewing Agencies/Pre-Hearing Discussion

City departments and other interested agencies reviewed this application from 11/9/09 to 11/20/09. The pre-hearing discussion meeting was held on November 25, 2009. Few agency comments were received. The Office of Neighborhood Coordination (ONC), Transportation Development, Solid Waste, Transit and PNM provided standard comments. The City Forrester communicated with Staff via a separate e-mail (see attachment). Agency comments begin on p.19 of this report.

B) Neighborhood Concerns

Several neighborhood organizations were required to be notified: the La Mesa Community Improvement Association, the Jerry Cline Park Neighborhood Association (JKPNA), the District 6 Coalition of NAs and the District 7 Coalition of NAs. The applicant notified them as required (see attachments).

A facilitated meeting regarding the requested waiver of the landscape requirement was held on December 3, 2009 (see attachment). Neighbors had concerns regarding specifics of the AA application, such as the proposed back up generator and equipment building, which are not in the scope of the current request. Note that a facilitated meeting for the overall AA application was held on August 18, 2009. At that time, the landscaping issue was outstanding.

Staff received a letter from the Jerry Cline Park NA, which is opposed to the requested waiver (see attachment). The JKPNA believes that landscaping should be provided as required by the WT regulations, which would mean landscaping on all sides of both lease areas. Particularly, the neighbors want the eastern side of Lease Area B to be landscaped since it would be visible from Chama St. They are also concerned that the walls could be targets for graffiti.

VII. CONCLUSION

This request is for a waiver of the landscape requirement associated with a proposed, free-standing wireless telecommunication facility (WTF) on the subject site (1007674, 09AA-10016). Pursuant to §14-16-3-17(A)(16)(a) of the Wireless Telecommunication (WT) regulations, the Environmental Planning Commission (EPC) has jurisdiction to waive the landscape requirement. The wireless Designee cannot.

The proposed WTF does not comply with WT regulations, which require that landscaping surround new free-standing WTFs to properly screen ground equipment from public view. Landscaping is not proposed around the tower enclosure wall (Lease Area A). Landscaping is proposed on only two sides of the equipment enclosure wall (Lease Area B).

Overall, the request generally furthers the few, applicable policies in the Comprehensive Plan. The goal and objectives of the La Mesa Sector Development Plan (LMSDP) do not apply. It can be demonstrated

that the waiver, with the proposed conditions of approval, would fulfill the WT regulations' waiver criteria and further the intent of the Zoning Code.

A facilitated meeting was held on December 3, 2009. As of this writing, the Jerry Cline Park Neighborhood Association submitted a letter of opposition to the requested waiver. Staff recommends that the EPC grant the waiver subject to conditions of approval.

FINDINGS -09EPC 40059, December 17, 2009-Waiver of the Landscaping Requirement for a Proposed Free-Standing Wireless Telecommunications Facility (WTF) (1007674, 09AA-10016)

1. This is a request for a waiver of the landscaping requirement for a proposed free-standing Wireless Telecommunications Facility (WTF) for the west ½ of Lot 1, Section 19, T10N, R4E, N.M.P.M, an approximately 1.21 acre site located on the south side of Lomas Boulevard between the State Fairground and Chama Street. An established restaurant/lounge occupies the subject site.
2. The Wireless Telecommunication (WT) regulations require that a free-standing WTF be surrounded by a solid fence or wall and landscaping to properly screen ground equipment facilities from public view [§14-16-3-17(A)(16)(a)]. No landscaping is proposed around Lease Area A and partial landscaping is proposed around Lease Area B.
3. The applicant is requesting a waiver of the WT regulations' landscape requirement [Subsection (A)(16)(a)] for the following reasons: A) The base of the proposed monopole would not be visible from Lomas Boulevard and Chama Street, and would use one parking lot space (Lease Area A). B) The proposed equipment area would be located in the farthest parking lot spaces, and the proposed design would not allow for landscaping without infringing on an existing drive aisle (Lease Area B).
4. The Comprehensive Plan, the La Mesa Sector Development Plan (LMSDP), the City of Albuquerque Zoning Code and the Federal Telecommunications Act are incorporated herein by reference and made part of the record for all purposes.
5. The subject site is zoned C-2 (SC). WTFs are a permissive use in the C-2 zone [§14-16-2-17(A)(17)]. The SC designation supplements the underlying zoning with site development plan review requirements and other regulations.
6. The subject site lies within the boundaries of the Established Urban Area of the Comprehensive Plan and the La Mesa Sector Development Plan (LMSDP).
7. The request *further*s applicable Comprehensive Plan policies. The proposed landscaping buffers would not be an intense use; their location and design would not adversely affect social, cultural and recreational resources and would generally improve scenic resources in the vicinity (Policy II.B.5d). Landscape buffers in general would improve the quality of the visual environment in the vicinity of the subject site (Policy II.B.5m).

8. The request *partially furthers* the Developed Landscape Goal. The proposed landscape buffers are partial and would not improve the quality of the developed environment as much as full landscape buffers would. However, the area behind the existing building would not be readily visible and would benefit less from landscaping.

9. As modified by the proposed conditions of approval, the waiver satisfies the criteria in §14-16-3-17(C)(1) as follows:

- A. The waiver is in the best interest of the community as a whole because it would allow for the expansion and/or provision of wireless services while maintaining the intent of the Zoning Code regarding health, safety and welfare.
- B. The waiver would expedite the approval of a proposed WTF by resolving an outstanding issue in the WTF application process.
- C. The waiver would not create a situation that would jeopardize public health, safety and welfare since WTFs are required to meet the Federal Communication Commission (FCC) health and safety standards.
- D. The waiver will ameliorate the proposed WTF tower's impact on the visual and physical environment by contributing to properly screening ground equipment from public view and supporting a proposed WTF design which separates the equipment area and the tower area.
- E. The waiver will preserve the intention of properly screening ground equipment from public view while furthering the provision of wireless service within the context of the WT regulations (Section §14-16-3-17).

10. In reviewing the waiver, the EPC has considered the following items as indicated in §14-16-3-17(C)(2):

- A. The proximity of the tower antenna to residential structures and residential district boundaries [(C)(2)(b)]
- B. The nature of uses on adjacent and nearby properties [(C)(2)(c)]
- C. The surrounding vegetation and foliage [(C)(2)(e)]
- D. The design of the tower or antenna, with particular reference to design characteristics that have the effect of reducing or eliminating any visual obtrusiveness [(C)(2)(f)]
- E. The proposed ingress and egress [(C)(2)(g)]

11. The WT regulations state that the EPC may waive the landscaping requirement upon finding that such requirement is not useful for achieving the intent of the Zoning Code [§14-16-3-17(A)(16)(a)]. The

landscape buffers, as revised by the associated conditions of approval, further the intent of the Zoning Code because they would generally enhance the appearance of the landscape while allowing for economically sound development which would not adversely affect the public health, safety or welfare.

12. The application for a proposed free-standing WTF on the subject site (1007674, 09AA-10016) is pending; no decision has been made as of this writing.

13. A facilitated meeting regarding the requested waiver of the landscape requirement was held on December 3, 2009. Neighbors expressed concerns mostly about the proposed generator and equipment building, which are outside the scope of the current request. As of this writing, the Jerry Cline Park Neighborhood Association submitted a letter of opposition to the requested waiver.

RECOMMENDATION - 09EPC 40059, December 17, 2009

APPROVAL of 09EPC 40059, a Waiver of the Landscaping Requirement for a Proposed Free-Standing Wireless Telecommunications Facility (WTF) (1007674, 09AA-10016) for the west ½ of Lot 1, Section 19, T10N, R4E, N.M.P.M, zoned C-2 (SC), based on the preceding Findings and subject to the following Conditions of Approval.

CONDITIONS OF APPROVAL - 09EPC 40059, December 17, 2009- Waiver of the Landscaping Requirement for a Proposed Free-Standing Wireless Telecommunications Facility (WTF)

1. The EPC delegates its authority regarding this site development plan set to the Planning Department Director's designee (the "wireless Designee"). The wireless Designee is responsible for ensuring that all EPC Conditions have been satisfied and that other applicable City requirements have been met. A letter shall accompany the submittal, specifying all modifications that have been made to the site development plan set since the EPC hearing, including how the site development plan set has been modified to meet each of the EPC conditions. Unauthorized changes to the site development plan set, including before or after the administrative decision regarding the pending WTF application, may result in forfeiture of EPC approval.

2. Prior to receiving an administrative decision regarding the pending WTF application (1007674, 09AA-10016), the applicant shall meet with the wireless Designee to ensure that the conditions of approval are met. Evidence of this meeting shall be provided to the Designee and made part of the record.

3. The applicant shall make revisions to the site development plan set to ensure that the conditions of approval are duly incorporated. The revised site development plan set shall be presented to the wireless Designee.
 4. The landscape buffers on the northern and southern sides of Lease Area B, and any structures as necessary, shall be shifted 1.5 feet to the east to comply with the minimum side setback required by the C-2 zone.
 5. A landscape buffer, at least 3 ft. wide, shall be provided on the eastern side of Lease Area B.
 6. The portable storage units shall be relocated to another area (on or off the subject site) where they will not impede light to any landscape buffer.
 7. Lease Area B shall be moved to the southwestern most corner of the subject site.
 8. Lease Area B shall be reconfigured, if and as necessary, to incorporate the conditions of approval.
 9. The landscaping requirement for Lease Area A is waived in its entirety.
 10. CONDITIONS FROM THE CITY ENGINEER, MUNICIPAL DEVELOPMENT, WATER AUTHORITY and NMDOT:
 - A. Maintain 24' drive aisles, for two-way traffic, adjacent to proposed Verizon Wireless lease areas A & B as shown on the site development plan.
 - B. Site plan shall comply and be designed per DPM Standards.
-

Catalina Lehner, AICP
Senior Planner

cc: Jim Schumacher, Pacific Realty Co., 7220 Lomas Blvd. Albuquerque, NM 87110
Les Gutierrez, Verizon Wireless, 2691 Via Caballero del Norte, Santa Fe, NM 87505
Nancy Bearce, La Mesa Community Improvement Assoc./District 6 Coalition of N.A.s, 600 San Pablo
NE, Albuquerque, NM 87108
Rose Walker, La Mesa Community Improvement Assoc. 1033 Utah NE, Albuquerque, NM 87110
Julie Jones, Jerry Cline Park N.A., 7625 Winter Ave. NE, Albuquerque, NM 87110
Ron Goldsmith, Jerry Cline Park N.A., 1216 Alcazar St. NE, Albuquerque, NM
Claude Lewis, District 6 Coalition of N.A.s, 465 Jefferson NE, Albuquerque, NM 87108
Bill Hoch, District 7 Coalition of N.A.s, 813 Calle Del Corte NE, Albuquerque, NM 87110
Lynne Martin, District 7 Coalition of N.A.s, 1531 Espejo NE, Albuquerque, NM 87112

CITY OF ALBUQUERQUE AGENCY COMMENTS

PLANNING DEPARTMENT

Zoning Code Services

No comments.

Office of Neighborhood Coordination

La Mesa Community Improvement Assoc. (R)

Jerry Cline Park NA (R)

District 6 Coalition of NAs

District 7 Coalition of NAs

11/9/09 – Recommended for facilitation – siw

11/9/09 – Assigned to Diane Grover – sdb

A facilitated meeting is in the process of being set up – siw

Long Range Planning

CITY ENGINEER

Transportation Development Services

- Maintain 24' drive aisles, for two-way traffic, adjacent to proposed Verizon Wireless lease areas A & B as shown on the site development plan.
- Site plan shall comply and be designed per DPM Standards.

Traffic Engineering Operations

- No comments received.

New Mexico Department of Transportation (NMDOT):

- No comments received.

Conditions of approval for the proposed Site Development Plan for Building Permit Amendment for WTF shall include:

A. Maintain 24' drive aisles, for two-way traffic, adjacent to proposed Verizon Wireless lease areas A & B as shown on the site development plan.

B. Site plan shall comply and be designed per DPM Standards.

Hydrology

- The Hydrology Section has no adverse comments on the site plan.

DEPARTMENT of MUNICIPAL DEVELOPMENT

Street Maintenance

- No comments received.

Transportation Planning

- Reviewed, and no comments regarding on-street bikeways, off-street trails or roadway system facilities.

WATER UTILITY AUTHORITY

Utility Services

ENVIRONMENTAL HEALTH DEPARTMENT

Air Quality Division

Environmental Services Division

PARKS AND RECREATION

Planning and Design

Open Space Division

Open Space has no adverse comments

City Forester (see attachment- separate e-mail correspondence with Staff)

POLICE DEPARTMENT/Planning

Nearest Police Station – Phil Chacon Memorial Substation, 800 Louisiana SE, I-25 – Eubank, I-40 City Limits.

SOLID WASTE MANAGEMENT DEPARTMENT

Refuse Division

APPROVED: AS LONG AS THE TELECOM FACILITY DOES NOT HINDER DRIVER ACCESS.

FIRE DEPARTMENT/Planning

TRANSIT DEPARTMENT

Adjacent and nearby routes	Route #11, Lomas Route, passes the site on Lomas in the eastbound direction.
Adjacent bus stops	Nearest bus stop is 100' from the site across the street serving the westbound Lomas Route. The bus stop for the eastbound Lomas Route is approximately 300' east of the property.
Site plan requirements	None
Large site TDM suggestions	N/A
Other information	None.

COMMENTS FROM OTHER AGENCIES

BERNALILLO COUNTY

ALBUQUERQUE METROPOLITAN ARROYO FLOOD CONTROL AUTHORITY

Reviewed, no comment.

ALBUQUERQUE PUBLIC SCHOOLS

This will have no adverse impacts to the APS district.

MID-REGION COUNCIL OF GOVERNMENTS

MIDDLE RIO GRANDE CONSERVANCY DISTRICT

PUBLIC SERVICE COMPANY OF NEW MEXICO

As a condition, it is the applicant's obligation to determine if existing utility easements or rights-of-way are located on or adjacent to the property and to abide by any conditions or terms of those easements or agreements and to contact PNM to coordinate electric service regarding this project. PNM's standard for public utility easements for distribution is 10 feet in width to ensure adequate, safe clearances.